

## REMARKS

### Office Action Summary

The drawing were objected to under 37 CFR 1.83(a).

Claims 3, 9, 15 and 23 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

Claims 3, 9, 15 and 23 have been rejected under 35 U.S.C. §112, first paragraph, as based on a disclosure which is not enabling.

Claims 3, 9, 15 and 23 have been rejected under 35 U.S.C. §112, first paragraph, for reasons set forth in an objection to the specification.

Claims 1, 7, 13 and 21 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

Claims 1-29 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,402,416 of Cielsak et al. ("Cielsak") and U.S. Patent No. RE37,435 of Yoshimura et al. ("Yoshimura").

Claim 29 has been rejected based on the same analysis for claim 28.

### Status of Claims

Claims 1-7, 9-13, 15-21, 23 and 25-29 are pending in the application. Claims 1, 3, 7, 9, 13, 15, 16, 21 and 23 have been amended to more properly define preexisting claim limitations. The amended claims are supported by the specification. No claims have been added. No new matter has been added. Claim 24 has been canceled, without prejudice, in this amendment.

The specification has been amended to correct minor matters of form. No new matter has been added.

### Claim Objections and Rejections

Claims 3, 9, 15 and 23 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Claims 3, 9, 15 and 23 have been rejected under 35 U.S.C. §112, first paragraph, as based on a disclosure, which is not enabling. Claims 3, 9, 15 and 23 have been rejected under 35 U.S.C. §112, first paragraph, for reason set forth in the objection to the specification. Claims 1, 7, 13 and 21 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The drawing were objected to under 37 CFR 1.83(a).

It is submitted that the amendments to claims 1, 3, 7, 9, 13, 15, 21 and 23 overcome the objections to the drawings and the various 35 U.S.C. §112 rejections to the claims. Furthermore, it is submitted that claims 1, 3, 7, 9, 13, 15, 21 and 23 contain subject matter which is described in the specification in a definite manner as to enable one of ordinary skill in the art to make and use the same. In particular, the specification at page 8 provides a table of exemplary statistical information, such as number of cells per VC and number of cells with cell loss priority bit set to 0 or 1 that may be accumulated and collected by stats collection module 206 of Figure 3. Furthermore, the specification at page 14 states:

FIFO control unit 308 [of stats collection module 206] is a processing device that processes information from comparator 350. FIFO control unit 308 operates to store the LCI related to stat 312 that is above a threshold, into FIFO buffer 304. FIFO buffer 304 may store a plurality of LCIs ( $LCI_1$  through  $LCI_N$ ). Consequently,  $LCI_1$  through  $LCI_N$  refer to high priority stats – stats having a corresponding adder with a count value that is greater than or equal to a threshold. As such, FIFO control unit 308 operates to send an interrupt signal to CPU 302 if the count value of adder 314 is greater than or equal to the threshold. The interrupt signals informs CPU 302 that stat 312 is greater than or equal to the threshold and that consequently all stats related to that connection (CLI) should be collected before collecting stats related to LCIs having all stats below the threshold.

It is submitted that how to generate an interrupt signal is well known to those of ordinary skill in the art.

Therefore, applicants respectfully request that the objections and rejections with respect to claims 1, 3, 7, 9, 13, 15, 21 and 23 be withdrawn.

Claims 1-29 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,402,416 of Cielsak et al. ("Cielsak") and U.S. Patent No. RE37,435 of Yoshimura et al. ("Yoshimura"). It is respectfully noted that claims 8, 14 and 22 were previously canceled and, therefore, the rejections with respect to these claims are moot and not addressed herein.

It is respectfully submitted that claim 1 is patentable over the cited references.  
Claim 1, as amended, recites:

A method for a network switch, the method comprising:  
    counting statistics for a plurality of connections to generate a count value for each of the plurality of connections, wherein the statistics include a number of cells per virtual channel and a number of cells having a loss priority bit;  
    determining if the count value for each of the connections is above a threshold; and  
    **collecting statistics for the connections of the switch having the count value above the threshold before connections having the count value below the threshold.**

(emphasis added)

The Office Action states:

Regarding claims 1, 2, 7, 8, 13, 14, 21, 22 and 27 Cielsak discloses a network interface comprising:  
    a memory to store statistics for a connection; a counter, to count statistic stored in the memory (counting switch stabilizing message, Col. 9, lines 29-53);  
    a processor to determine if a count value of connections is above a threshold (block 120, Fig. 9) and to collect the statistics for the connections of the switch stored in the memory derived from counters having a counter value above the threshold (block 122 fig 9) **before collecting statistics in the memory derived from counters having a**

**count value below the threshold (block 126, Fig. 9; Col. 13, lines 15-39).** Cielsak does not explicitly disclose the statistic includes a number of cells per virtual channel and a number of cells having loss priority bit. However, in the same field of endeavor, Yoshimura discloses a supervisory control system for controlling cells transmission over ATM switching system. Yoshimura's teaching included connection modification based on cells count in Virtual Channel and Cell Loss Priority (CLP) counting and threshold comparison (See inter alia Fig. 3-7, Col. 1, lines 25-34; Col. 4, lines 11-25; Col. 6, line 29-Col. 7, line 6). It would have been obvious to one of ordinary skilled in the art at the time of the invention was made to incorporate the teaching of using the result of counting cells in a virtual channel and counting of cell loss priority as suggested by Yoshimura for controlling network traffic, establishing connection and other purpose in Cielsak in order to improve quality of network traffic.

(Office Action 8/5/04, pp. 4-5)(emphasis added).

Applicants respectfully disagree with the Office Action's characterizations of the cited references. In particular, it is submitted that Cielsak does not disclose or teach collecting statistics for the connections of the switch stored in the memory derived from counters having a counter value above the threshold before collecting statistics in the memory derived from counters having a count value below the threshold, as purported by the Office Action. The Office Action cites to block 126 of Figure 9 and column 13, lines 15-39 of Cielsak in support of its assertion of such an alleged teaching. It is respectfully submitted that there is no such teaching in Cielsak.

Cielsak teaches a stabilization process whereby after receiving a stabilization message, a switch node resets a stabilizing min counter and a stabilizing max counter. With receipt of each packet, the max counter is incremented by one. Upon incrementing the max counter, processing determines whether the stabilizing max counter is over a predefined threshold, step 120. If "Yes," **then the stabilization process is considered complete** and the switch port is triggered to reallocate buffers. (Cielsak, col. 13, lines 15-39). As such, no statistics are collected for the switch after max counter is determined to be over the threshold.

Furthermore, the operations performed by the stabilization process of Cielsak appear to only be for one connection. As such, no connections having a count value below the threshold are considered, or even have statistics collect. Block 126 of Cielsak does not collect statistics from counters having a count value below the threshold, as purported by the Office Action. Rather, block 126 merely determines what occurs in the stabilization process if the queuing delay difference is less than the threshold. If so, the stabilizing max counter is again incremented and the process returns to the query of step 120.

Nothing in Cielsak or Yoshimura, either alone or in combination, teaches or suggests collecting statistics for the connections of the switch having the count value above the threshold before connections having the count value below the threshold, as recited in claim 1. Furthermore, it is respectfully submitted that Cielsak and Yoshimura do not teach or suggest a combination with each other. As such, it is respectfully submitted that it would be impermissible hindsight, based on applicants' own disclosure to combine Cielsak and Yoshimura. Therefore, it is submitted that claim 1 is patentable over the cited references.

Given that claims 2-6 depend from and, therefore, include the limitations of claim 1, it is submitted that claims 2-6 are also patentable over the cited references.

For reasons similar to those given above with respect to claim 1, it is submitted that claims 7, 9-13, 15-21, 23 and 25-29 are patentable over the cited references.

In conclusion, applicants respectfully submit that in view of the arguments and amendments set forth herein, the applicable objections and rejections have been overcome.

If the Examiner believes a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact Daniel Ovanezian at (408) 720-8300.

If there are any additional charges, please charge our Deposit Account No. 02-2666.

Respectfully submitted,

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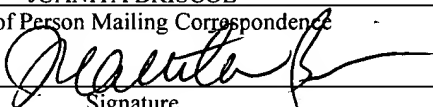
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